

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X Index No. 13120/07

ABOUBACAR JALLOH,

Plaintiff,

VERIFIED ANSWER

-against-

**DEFENDANT DEMANDS
TRIAL BY JURY**

THOMAS P. WENDEL,

Defendants.

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Defendant, THOMAS P. WENDEL, by and through his attorneys, the Law Offices of Patrick J. Maloney, as and for an answer to the complaint of the plaintiff, alleges as follows upon information and belief:

FIRST: Denies each and every allegation contained in Paragraphs “2”, “14” and “15” of the Complaint.

SECOND: Denies each and every allegation contained in Paragraphs “3” and “4” and respectfully refers all questions of law therein to the Court for resolution.

THIRD: Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraphs “6”, “7”, “8”, “9”, “10”, “11”, “12” and “13” of the complaint.

FOURTH: Denies knowledge or information sufficient to form a belief as to each and every allegation contained in Paragraphs “1” and “5” and respectfully refers all questions of law therein to the Court for resolution.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

FIFTH: The amount of any judgment or award against this answering defendant shall be reduced by the amount of plaintiff’s comparative fault and the comparative fault of any adverse party.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

SIXTH: Service of process was improper and as a consequence of the foregoing, the complaint should be dismissed in all respects.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

SEVENTH: That any damages otherwise recoverable by the plaintiff shall be diminished in the proportion which the failure of the plaintiff(s) to wear seat belts bears to the culpable conduct which caused the damages and/or injuries alleged.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

EIGHTH: The action is barred by reason of the plaintiff's failure to sustain a serious personal injury as defined by Section 5102 of Article 51 of the Insurance Law.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

NINTH: That in the event of any judgment or verdict on behalf of the plaintiff, the defendant is entitled to a set-off verdict with respect to the amounts of any payments made to the plaintiff for medical and other expenses prior thereto.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

TENTH: That plaintiff assumed the risk of any injuries which plaintiff may have sustained at the time and place set forth in the Complaint herein.

WHEREFORE, defendant demands judgment of this court dismissing the complaint in all respects and granting defendant such other, further or different relief as the Court may deem just and proper.

Dated: New York, New York
May 21, 2007

Yours, etc.

LAW OFFICES OF PATRICK J. MALONEY

By:_____

Mark A. Solomon
Attorneys for Defendant
THOMAS P. WENDEL
90 Broad Street – Suite 2202
New York, New York 10004
(646) 428-2650

TO: BUDIN, REISMAN, KUPFERBERG & BERNSTEIN, LLP
Attorneys for Plaintiff
112 Madison Avenue
New York, New York 10016
(212) 696-5500
File Number: Y8236

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X Index No. 13120/07
ABOUBACAR JALLOH,

Plaintiff,

**ATTORNEY'S
VERIFICATION**

-against-

THOMAS P. WENDEL,

Defendants.

-----X
Mark A. Solomon, an attorney duly admitted to practice law before the Courts of
New York State, hereby affirms under the penalties of perjury pursuant to CPLR 2106:

I am an associate of the firm of the LAW OFFICES OF PATRICK J.
MALONEY, attorneys for defendant, THOMAS P. WENDEL.

I submit the following statement upon information and belief, based upon an
inspection of the records maintained by this office, which records I believe to be true.

That I have read the contents of the attached Verified Answer and believe it to be
true based on information available or maintained by this firm. I make this verification
because this defendant is not located in New York County.

Dated: New York, New York
May 21, 2007

Mark A. Solomon

CERTIFICATE OF SERVICE

MARK A. SOLOMON, ESQ. affirms the following under the penalties of perjury under the law of the United States and the State of New York:

I am an attorney at law admitted to practice before the Courts of the State of New York and this Honorable Court.

I am an associate of the firm of the Law Offices of Patrick J. Maloney, the attorneys of record for the defendant, THOMAS P. WENDEL, in this action. I am over the age of eighteen and not a party to the action.

On May 21, 2007, I served the within VERIFIED ANSWER upon:

TO: BUDIN, REISMAN, KUPFERBERG & BERNSTEIN, LLP
Attorneys for Plaintiff
112 Madison Avenue
New York, New York 10016
(212) 696-5500

by depositing a true copy thereof enclosed in a properly addressed postpaid envelop in a mail depository under the exclusive control of the United States Postal Service in the State of New York.

Dated: New York, New York
May 21, 2007

Mark A. Solomon

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

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ABOUBACAR JALLOH,

Plaintiff,

-against-

THOMAS P. WENDEL,

Defendants.

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VERIFIED ANSWER

LAW OFFICES OF PATRICK J. MALONEY

Attorneys for Defendant
THOMAS P. WENDEL
90 Broad Street – Suite 2202
New York, New York 10004
(646) 428-2650